IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 4496 of 2004

Between:

Sirigiri Mohana Reddy son of Jyothi Reedy
Bhimavaram Village, Vatsavai Mandal, Krishna Dist.

..... PETITIONER

AND

1 The District Collector, Krishna AT Machilipatnam.
2 The Mandal Educational Officer, Vatsavai, Mandal Vatsavai,

Krishna Dist.
3 The Chief Executive Officer, Krishna Zilla Parishad,
Bhimavaram FAC at Chilakalapudi.
4 The Chairman, School Education Committee, Zillaparishad High

School, Bhimavaram, Vatsavai Mandal, Krishna District.
5 Shaik Mysoor, Son of Ghannu Saheb,
School Education Committee, Bhimavaram, Mandal Vatsavai,
Krishna District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned proceedings No.Rc.No.Spl./SSA/SEC/04 dt. 23/02/2004 issued by the Mandal Educational Officer, Vatsavai, directing the Chairman, Education Committee to pay the amount forthwith by clearing the bills relating to construction of additional hall /room in Bhimavaram Zilla Parishad High School Premises under 'Sarva Shikshaa Abhiyayan' Programme as arbitrary, illegal without enquiry and contrary to the provisions under AP. School Education (Community Participation) Act, 1998 and its Rules.

Counsel for the Petitioner: MR.T.V.RAMANA RAO

Counsel for the Respondents 1 and 2: GP FOR SCHOOL EDUCATION

Counsel for Respondent Nos.3 and 4: None appeared

Counsel for Respondent No.5 : P.Prabhakar Rao

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.4496 OF 2004

ORDER:

The petitioner is resident of Bhimavaram village of Vatsavai Mandal in Krishna District. Aggrieved by communication dated 23.02.2004 of the second respondent to the Chairman of School Education Committee (SEC) of Z.P. High School, Bhimavaram, fourth respondent herein, and to the Headmaster of the said School, the petitioner filed the present writ petition. He prays for a writ of Mandamus to declare the said letter/proceedings of the second respondent as illegal and contrary to the provisions of A.P.School Education (Community Participation) Act, 1998 and the Rules made thereunder.

The fifth respondent was the Chairman of SEC or Vidya Committee during the period from 2001 to 2003. During his tenure, the District Collector sanctioned a sum of Rs.1,60,000/- (Rupees one lakh sixty thousand only) by proceedings dated 18.03.2003 for construction of additional classrooms in Z.P.High School, Bhimavaram. The said amount was deposited in joint account of the Chairman, SEC and Headmaster of the School. The fifth respondent completed the construction of additional classrooms but the amount was not paid. Therefore, he made complaint to the District Collector, the first respondent herein, who directed the second respondent to take necessary action in the matter. The fifth respondent also made a complaint to the Executive Engineer, Panchayat Raj Department, Vijayawada, who directed the District Education Officer to enquire into the matter. The Mandal Parishad Development Officer (MPDO) by her letter dated 11.02.2004 to the District Collector informed that the Chairman of SEC and Headmaster were directed to pay the amount to fifth respondent, that the Headmaster informed that there is no objection for payment of the amount but the present Chairman Sri Gundam Ranga Reddy is not cooperating for payment of the amount. The second respondent herein thereafter issued a letter to fourth respondent as well as the Headmaster directing fourth respondent to cooperate with the Headmaster and pay the amount to fifth

respondent.

This Court while admitting the writ petition suspended the letter of the second respondent. The fifth respondent herein moved an application being W.V.M.P.No.2224 of 2004 praying this Court to vacate the interim order. The second respondent also filed counter affidavit. The interlocutory matters are listed today. With the consent of the learned counsel for the respective parties, the matter is finally disposed of.

Second respondent in the counter affidavit states that the petitioner never brought to the notice of the second respondent about the donations allegedly collected by fifth respondent and that though the amount was deposited in joint account of Chairman, SEC and Headmaster; the Chairman is not cooperating to pay the amount to fifth respondent and therefore the impugned letter was issued as directed by the District Collector. It is also stated that the present Chairman made a representation on 27.11.2003 to the District Collector alleging irregularities committed by fifth respondent and that fifth respondent collected amount of Rs.2,00,000/- (Rupees two lakhs only) for construction of school building. The impugned letter was issued after obtaining the necessary reports from the Executive Engineer, Panchayat Raj, Vijayawada and Mandal Parishad Development Officer, Vatsavai.

In the counter affidavit accompanying W.V.M.P., the fifth respondent denies the allegation that the petitioner or the parents of the students donated amounts for construction of classrooms. It is averred that the receipt dated 19.06.2003 filed by the petitioner is fabricated and that the respondent released amounts towards the bill, which are credited to the joint account of the education committee. All other allegations made in the petitioner's affidavit are also denied.

The learned counsel for petitioner submits that the fifth respondent collected donations from the people of the village promising to display names of donors in the newly constructed class rooms/hall, and that the petitioner has donated an amount of Rs.40,000/- (Rupees forty thousand only) on 19.06.2003 for the construction. He further submits that fifth respondent is again claiming the amounts, which amounts to fraud on the public. He also submits that though the proceedings were issued on 23.02.2004 by the second respondent, with the intervention of the present Chairman of SEC, the amounts were not released to fifth respondent.

The learned counsel for fifth respondent as well as learned Assistant Government Pleader for Education contend that the petitioner has no *locus standi* and that he has been set up for the present Chairman Sri Gundam Ranga Reddy. They also contend that the writ petition is not *bona fide* and that the petitioner never gave any complaint to the authorities on the alleged donations made by him and other villagers.

The impugned letter/proceedings is issued by the second respondent directing the fourth respondent to cooperate with the Headmaster to pay the amount to the fifth respondent towards construction of additional classrooms. It is not denied that Sri Gundam Ranga Reddy is the present Chairman. He is not aggrieved by the proceedings nor any member of the School Committee or Headmaster are

aggrieved. Curiously, the petitioner invoked the jurisdiction of this Court presumably to prevent the fifth respondent to receive the amount, which is spent for construction of the classrooms. The allegation that he paid an amount of Rs.40,000/- (Rupees forty thousand only) towards donation for the construction of classroom cannot be accepted. Though the second respondent as well fifth respondent in their counter affidavits denied the same, no reply affidavit is filed by the petitioner. The signature on the xerox copy of the receipt allegedly given by fifth respondent and the signature of the fifth respondent as seen from the counter affidavit are altogether different. Therefore, there is force in the submission of the learned counsel for respondents that the said receipt is fabricated. Indeed none of the villagers have made any complaint to that effect.

The District Collector by proceedings dated 18.03.2003 sanctioned an amount of Rs.1,60,000/- for construction of additional classrooms in Zilla Parishad High School, Bhimavaram. The amount was released and deposited in joint account of Chairman, SEC and Headmaster of the School. The construction was completed and as disclosed in the counter affidavit of the second respondent, the M.L.A., Jaggaiahpet Constituency, inaugurated and opened the building on 15.07.2003. Till then no complaint was made by the present Chairman, even though he was elected Chairman of SEC in the elections held in July, 2003. As disclosed in the counter affidavit, the Chairman made a complaint to the District Collector only on 27.11.2003 and therefore it is reasonable to infer that the petitioner at the behest of the present Chairman has invented the theory of donations as an afterthought. Further the petitioner allegedly donated amount on 19.06.2003 and the building was inaugurated on 15.07.2003. This only means even by the date of the petitioner's alleged donation, the amount was deposited in joint account of the Chairman and the Headmaster, and in all probability the building was at an advanced stage as it was inaugurated on 15.07.2003. On balancing of probabilities, the case of the petitioner cannot be accepted.

The writ petition is not *bona fide* and therefore this Court is of considered opinion that there is something, which does not meet the eye in the whole affair.

The writ petition is devoid of merits and is accordingly dismissed with costs.

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(V.V.S.RAO,J)

07.09.2004.

pln

To

1. The District Collector, Krishna at Machilipatnam.
2. The Mandal Educational Officer, Vatsavai, Mandal Vatsavai, Krishna District.
3. The Chief Executive Officer, Krishna Zilla Parishad, Bhimavaram FAC at Chilakalapudi.
4. The Chairman, School Education Committee, Zillaparishad High

School, Bhimavaram, Vatsavai Mandal, Krishna District.

5. 2 CCs to the G.P. for School Education, High Court Buildings,

   Hyderabad (OUT).

6. 2 CD copies.